

CODE OF THE TOWN OF CHARLESTOWN, RHODE ISLAND, v20 Updated 1-15-2003

PART II GENERAL LEGISLATION

Chapter 210, WASTEWATER MANAGEMENT DISTRICT

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[HISTORY: Adopted by the Town Council of the Town of Charlestown 9-12-1994 as Ord. No. 197; EN amended 10-24-1994 by Ord. No. 198. Amendments noted where applicable.]

GENERAL REFERENCES

Temporary sanitary facilities -- See Ch. 172.

§ 210-1. Purpose.

The Charlestown Town Council hereby finds that, without proper operation and maintenance, individual sewage disposal systems (ISDS) or septic systems will eventually fail. ISDS failure poses a risk to public health and a potential contamination source to the surface and ground waters of the state. The purpose of this ordinance is to establish a Wastewater Management District (WWMD), in accordance with the provisions of Chapter 45-24.5 of the Rhode Island General Laws, to ensure that ISDS are properly operated, regularly inspected and routinely maintained to prevent malfunctioning systems and to operate as an alternative to municipal sewer systems and to further the purpose of Chapter 46-13-2 of the Rhode Island General Laws which relates to the drilling of drinking water wells.

§ 210-2. Definitions.

A.Sections 210-2 and 210-3 have been taken from the Rhode Island Department of Environmental Management's (RI DEM) Regulations for Individual Sewage Disposal Systems, the purpose of which is to allow for coordination and consistent wastewater management programs at both the state and local levels.

B.As used in these rules and regulations, the following terms shall, where the context permits, be construed as follows:

ALTERATION -- Any modernization, modification or change in the size or type of an existing individual sewage disposal system, including but not limited to any work performed in connection with a building renovation and/or change of use of that building; also including any work performed to accommodate any increase in sewage flow to that system.

BEDROOM:

(1) Any room in a residential structure which is greater than seventy (70) square feet in area, which is susceptible to present or future use as a private sleeping area and which has at least:

(a) One (1) window; and

(b) One (1) interior method of entry and egress, excluding closets and bathrooms, allowing the room to be closed off from the remainder of the residence for privacy.

(2) In determining the number of bedrooms contained in any residence, it shall be presumed that all residences contain a living room, kitchen, bathroom and at least one (1) bedroom.

BLACK WATER -- That portion of sanitary sewage constituted substantially of human or animal excrement.

BUILDING RENOVATION -- Any addition, replacement, demolition and reconstruction or modification of an existing structure.

BUILDING SEWER -- The pipe which begins outside the building wall and extends to any place or mechanism of sewage disposal, including but not limited to a cesspool, leaching chamber, septic tank or pressure or gravity sewer leading to a leaching system.

CESSPOOL -- Any buried chamber, including but not limited to any metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges of sanitary sewage from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil. "Cesspools" are not an approved method of sewage disposal under these regulations, and all existing "cesspools" are considered to be substandard. [Also see § 210-6A(3)(b).]

CHANGE OF USE -- Refers to any change in use or occupancy of any structure or part thereof which would violate any provision of the Rhode Island State Building Code, Rhode Island General Laws, Chapter 23-27.3, as amended, and/or any regulation promulgated pursuant thereto without first obtaining the approval of the appropriate building official and/or without the issuance of a certificate of occupancy indicating that the structure complies with the provisions of the State Building Code for the proposed new use.

DEPARTMENT or DEM -- The Rhode Island Department of Environmental Management.

DIRECTOR -- The Director of the Rhode Island Department of Environmental Management or any subordinate(s) to whom the Director has delegated the powers and duties vested in him/her pursuant to Rhode Island General Laws, Chapters 46-12 and 42-17.1, as amended, or any other duly authorized agent.

DISPOSAL BED -- A shallow excavation in the ground, backfilled with stone, in which perforated distribution lines, or other suitable distribution devices, are laid and over which a cover of earth is placed.

DISPOSAL TRENCH -- A shallow ditch with vertical sides, filled with stone, in which a single perforated distribution line, or other suitable distribution devices, is laid and over which a cover of earth is placed.

DISTRIBUTION BOX -- A watertight compartment which receives septic tank effluent and distributes it in approximately equal portions to two (2) or more pipelines leading to some type of seepage system.

DISTRIBUTION LINE -- A perforated pipe or other suitable distribution device used to disperse septic tank effluent.

DIVISION -- The Rhode Island Department of Environmental Management's Division of Groundwater and ISDS.

DOSING TANK -- A watertight structure equipped with one (1) or more siphons or pumps designed to discharge sewage intermittently into a seepage system.

FAILED SYSTEM -- Any sewage disposal system that does not adequately treat and dispose of sewage that consequently creates a public or private nuisance or threat to public health and/or environmental quality, as evidenced by, but not limited to, one (1) or more of the following conditions:

(1) Failure to accept sanitary sewage into the building sewer.

(2) Discharge of sanitary sewage to a basement, subsurface drain, surface drain or surface water unless expressly permitted by the Department.

(3) Sanitary sewage rising to the surface of the ground over or near any part of an individual sewage disposal system or seeping down-gradient from the absorption area at any change in grade, bank or road cut.

(4) Any deterioration or damage to any individual sewage disposal system that would preclude adequate treatment and disposal of wastewater. (For example, contact between the bottom of the ISDS and the water table or damage from a vehicle driven over the leach field.)

FILLED SYSTEM -- Any system where the groundwater table is less than four (4) feet from the original ground surface and depth to ledge is less than six (6) feet from the original ground surface.

FRESHWATER WETLAND -- Defined as set forth in Rhode Island General Laws, Section 2-1-20(d), as amended, and as further defined by the Department's Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. The term shall further be held to include those wetland types defined by the remainder of Section 2-1-20 and the wetland regulations, including but not limited to marshes, swamps, bogs, ponds, rivers, river and stream floodplains and banks, areas subject to flooding or stream water, including rivers and streams, and that area of land within fifty (50) feet of the edge of any bog, marsh, swamp or pond or that area within one hundred (100) feet of a flowing body of water less than ten (10) feet wide or that area within two hundred (200) feet of a flowing body of water greater than ten (10) feet in width.

GREY WATER -- Any wastewater discharge from a structure, excluding the waste discharges from water closets and waste discharge containing human or animal excrement.

HIGHLY PERMEABLE -- Any gravel and/or coarse sand fill or naturally occurring soil with a percolation rate (equivalent permeability) faster than three (3) minutes per inch.

HUMUS TOILET -- Any self-contained toilet from which no liquid or solid waste materials are regularly discharged and from which a humus-like end product is produced.

IMPERVIOUS -- Any ledge, shale, bedrock or rotten rock and, for the purpose of these regulations, any soil with a percolation rate slower than forty (40) minutes per inch.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM or ISDS -- Any system of piping, tanks, disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat and/or dispose of sanitary sewage by means other than discharge into a public sewer system.

INVERT -- The lowest portion of the interior of a pipe or fitting.

LEACHING CHAMBER -- Any of a number and type of shallow, hollow, open bottom structures with perforated sidewall into which septic tank effluent is discharged for leaching into the ground.

MAINTENANCE -- The regular cleaning of any leaching chamber, cesspool, septic tank, building sewer, distribution lines or any other component of an ISDS

for the purpose of removing any accumulated liquid, scum and/or sludge. The term "maintenance" shall also be held to include any regularly required servicing or replacement of related mechanical, electrical or other equipment.

MAXIMUM GROUNDWATER TABLE ELEVATION -- The elevation of the water table that is observed when the groundwater is at its highest level during the year or highest level observed in past years when such information is available.

ORIGINAL GROUND -- Those soils or other natural geological features which have been deposited or developed by natural processes.

OWNER -- Any person who alone or jointly or severally with others holds legal title to any real property or has possession or control of any real property through any agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of a holder of a legal title or has possession or control through any lease or purchase and sale agreement. Each such person is bound to comply with the provisions of these rules and regulations.

PACKAGE TREATMENT PLANT -- A modular treatment facility of the extended aeration type, which design shall be consistent with criteria set forth for the activated sludge process in Guides for the Design of Wastewater Treatment Works (NEIWPCC, TR-16, latest edition) or other acceptable design standards. The effluent shall normally be disposed of into the soil through a surface sand filter.

PERCOLATION TEST -- A test to determine the absorption capacity of the soil.

PERSON -- Includes any individual, group of individuals, firm, corporation, association, partnership or any federal or municipal governmental entity.

PRIVATE WELL -- Any man-made opening into the ground developed for the purpose of meeting all or part of a person's potable water needs, provided that said well does not supply a public water system.

PRIVY -- Any facility used for a toilet lacking the flushing aid of water and consisting of a pit or vault into which the waste matter falls.

PROPERTY IMPROVEMENT -- Any structure or residence, as defined herein, or any other building, construction, excavation or other man-made feature added or to be added to a raw, unimproved-improved parcel of real property.

PUBLIC DRINKING WATER SUPPLY WELL or PUBLIC WELL -- Any man-made opening into the ground developed for the purpose of meeting all or part of the needs of a public water system.

PUBLIC WATER SYSTEM -- Any water system that provides piped water to the public for human consumption, provided that such a system has at least fifteen (15) service connections or serves an average of twenty-five (25) individuals daily at least sixty (60) days out of the year. A "public water system" shall include all sources and facilities involved in collecting, treating, storing and distributing the water.

REPAIR -- Work performed on an ISDS in order to mend or remedy a specific defect or deficiency after the failure, injury, deterioration or partial destruction of a previously existing ISDS or component thereof. A "repair" shall not include any work performed on an existing ISDS which increases the flow capacity of the system.

RESIDENCE -- Any structure used for housing purposes, including but not limited to single- or multiple-family dwellings, duplexes, tenements, apartment buildings, condominiums, mobile homes, recreational vehicles or trailers.

ROTTEN ROCK -- Any highly decomposed but still coherent rock, including but not limited to highly weathered granitic bedrock.

SANITARY SEWAGE -- Any human or animal excremental liquid or substance, any putrescible animal or vegetable matter and/or any garbage and filth, including but not limited to any grey water or black water discharged from toilets, laundry tubs, washing machines, sinks and dishwashers, as well as the content of septic tanks, cesspools or privies.

SEEPAGE PIT -- A covered pit with open jointed sidewalls and bottom from which septic tank effluent or waste containing little or no solids is leached into the soil.

SEPTAGE -- The solid and/or liquid materials which are pumped from an ISDS.

SEPTIC SYSTEM -- For the purpose of this ordinance, a septic system is analogous to an individual sewage disposal system.

SEPTIC TANK -- A watertight receptacle which receives the discharge of sewage from a building sewer and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited and the discharge of the liquid portion into a leaching system.

SHORELINE FEATURE -- Includes, but shall not be limited to, the following:

(1)**BARRIER BEACHES** -- Narrow strips of land made of unconsolidated material, usually extending parallel to the coast and separated from the mainland by a coastal pond, tidal water body or coastal wetland. In most cases, "barrier beaches" contain dunes or dune fields. The lateral limits of "barrier beaches" are

defined by the area where unconsolidated sand or cobble abut rock, glacial till or other sediments unrelated to deposits made by the forces of the wind and water. This definition of a barrier beach system is commonly associated with many geomorphic descriptions. These descriptions include, but are not limited to, barrier islands, bay barriers and spits. Spits are further described as tombolo, shingle, cusped and flying spits. The terms "bar" and "ridge" were once used to describe a barrier system but have since been replaced with the term "barrier."

(2)COASTAL BEACHES -- Includes expanses of unconsolidated, usually unvegetated-vegetated sediments that are commonly subject to wave action. They generally parallel the coastal trend and extend from low water landward to an upland rise, usually the foot of a dune, cliff, bank or man-made structure.

(3)DUNES -- Hills, mounds or ridges of sand formed by wind action and usually follow the general coastal trend immediately inland of a coastal beach. "Dunes" which are undisturbed are usually vegetated with beach grass and shrubs.

(4)COASTAL CLIFFS, BLUFFS AND BANKS -- The seaward face of any elevated land form directly abutting coastal waters, a beach, coastal wetland or rocky shore.

(5)MAN-MADE SHORELINES -- Characterized by man-made shoreline protection structures and other alterations that have affected the shoreline to such an extent that natural shoreline features are no longer dominant.

(6)ROCKY SHORES -- Includes naturally occurring shorelines composed of bedrock ledge or cobble or boulder-strewn areas, extending from below the mean water mark to above the mean high water mark. These areas frequently contain tide pools.

SIPHON -- A hydraulic device designed to discharge the contents of a dosing tank rapidly when a predetermined level is reached.

SLOPE OR GRADE -- The rate of rise or fall of a pipeline or of the ground surface in reference to a horizontal plane. "Slope or grade" is commonly referred to as "rise over run," a measurement which is a function of the rise or fall of the pipe or ground surface (as measured in inches or feet or a metric equivalent) divided by the linear distance over which the rise or fall occurs (as measured in inches or feet or a metric equivalent, respectively).

SPECIALLY ENGINEERED SYSTEM -- Any ISDS which does not meet the location, design or construction requirements as provided by these regulations but which, through additional field testing, calculations and other engineering evaluations, may be demonstrated to comply with the intent of these regulations.

STORM DRAIN -- Any pipe or structure designed to collect, carry and/or divert surface runoff.

STRUCTURE -- Any residence (as defined herein), building, garage, shack, trailer or other permanent or semipermanent facility, whether commercial or noncommercial in use, which is proposed to be placed or has been built or otherwise placed on a parcel of real property.

SUBDIVISION -- Three (3) or more contiguous lots of record under common ownership or the division of a single lot or parcel of land into three (3) or more lots or other divisions of land for the purpose of making said lot(s) more susceptible to present or future development, sale or transfer.

SUBDIVISION LAYOUT -- Any proposed design or arrangement of lots, roads, structures, easements, utilities or other features to be incorporated into a subdivision.

SUBSURFACE DRAIN -- Any system of below-surface piping and/or highly permeable material intended to lower the water table of an area. A foundation drain is a category of "subsurface drain" for the purpose of protecting the building foundation.

TEST PIT -- An open pit dug to permit an examination of the soil profile and to determine the elevation of the groundwater table.

TIDAL WATER or TIDEWATER -- Any watercourse, coastal wetland, freshwater wetland, river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow or any other standing or flowing body of water affected by the tides.

WASTEWATER -- Wastewater is analogous to sanitary sewage.

WASTEWATER MANAGEMENT DISTRICT (WWMD) -- All or a portion of one (1) or more cities or towns where the proper operation and maintenance of an ISDS will be required in accordance with the provisions of an adopted ordinance which defines the district.

WATERCOURSE -- Any river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow, tidewater or any other standing or flowing body of water.

§ 210-3. Pertinent DEM regulations.

Citations such as SD 2.01, SD 2.02, etc., reference the relevant sections of the RI DEM ISDS Regulations.

SD 2.00 - Construction, Renovation and/or Change of Use of Structures Using Individual Sewage Disposal Systems

(a) No person shall begin any building construction, building renovation and/or change of use of any structure from which sewage is being or will have to be disposed of by means of an individual sewage disposal system including improvements which will result in increased sewage flow, without first obtaining the Director's written approval in accordance with this section.

I. CONSTRUCTION OF NEW STRUCTURES:

Whenever an applicant proposes to construct a new structure from which sewage will be disposed of by means of an individual sewage disposal system, an Application for New System shall be made in accordance with SD 2.01 (b)(1) and SD 2.02, below. All Applications for New Systems shall conform with all requirements under these regulations.

(a) Construction of New Structures in Subdivisions - No person shall begin construction of any new structure in a subdivision located in an area where sewage will have to be disposed by means of an ISDS until he/she has applied for and obtained a Certification of Site Suitability from the Director in accordance with SD 18.00 et seq. An approved Certification of Site Suitability shall not operate as an approval for the construction of any ISDS as required by SD 2.01.

II. BUILDING RENOVATIONS AND CHANGES OF USE TO EXISTING STRUCTURES:

Whenever an applicant proposes any building renovation or change of use (as defined in SD 1.00) of an existing structure from which sewage is disposed of by means of an ISDS, an Application for a System Suitability Determination shall be made. For the purposes of this section, the term "building renovation" shall also be defined as including any addition, replacement, demolition and reconstruction, or modification of an existing structure on the subject property which:

(a) Results in an increase in sewage flow into the system*; or

(b) Affects fifty (50) percent or more of the floor space of the existing structure; or

(c) Is valued at greater than twenty-five (25) percent of the current replacement value of the subject structure where the existing sewage disposal system is a cesspool. For the purposes of this section, current replacement value may be established by using the BOCA cost index, or the owner may provide the pre-renovation replacement value as established by a qualified appraiser or estimator.**

*NOTE: All sewage flows shall be determined in conformance with State ISDS regulations.

****NOTE:** The Department recommends that whenever an owner proposes a building renovation or change of use of a structure using a cesspool-type or privy ISDS, that the owner consider proceeding directly to an Application for Alteration under SD 2.01(b)(2) rather than applying for a System Suitability Determination (see SD 2.00 (a) (4) below).

III.APPLICATION FOR SYSTEM SUITABILITY DETERMINATION:

An application for System Suitability Determination shall be required as specified in SD 2.00 (a)(2), above, in order to determine whether the existing individual sewage disposal system is suitable for the purposes proposed by the applicant. In reviewing any Application for system Suitability Determination, the Director may consider the cumulative effects resulting from past Change of Use Applications, Applications for System Suitability Determination, building permits and/or deed restrictions relating to the subject property. After reviewing an Application for System Suitability Determination, the Director shall determine whether the existing system:

- (a)Is suitable to adequately dispose of the proposed sewage flows so as to protect the public health and the environment; or
- (b)Is unsuitable and requires an approved Application for New System or Application for Alteration, in conformance with SD 2.01 (b) (1) or 2.01 (b) (2), respectively, and SD 2.02 before the proposed building renovation or change of use may be allowed.

IV.SYSTEM SUITABILITY DETERMINATIONS FOR STRUCTURES SERVED BY CESSPOOLS:

Cesspools are defined by these regulations to be a substandard method of sewage disposal. Accordingly, any Application for System Suitability Determination relating to a structure serviced by a cesspool which is filed for review with the Department pursuant to SD 2.00 (a)(2) and (3), above, will be presumed to be unsuitable and an application for New System or Alteration will be required in accordance with SD 2.00 (a)(3)(B), above.

(a)For System Suitability Determinations required under SD 2.00 (a)(2)(C) only, the Department's presumption of unsuitability may be rebutted by supplying the Department with affirmative engineering and geohydrological data indicating that the cesspool functions adequately to protect the public health, public interest and the environment in accordance with these regulations.

(b)In rebutting the Department's presumption of unsuitability, the applicant shall be required to demonstrate the following minimum criteria and setback requirements:

- (i) 75 feet to private well
- (ii) 200 feet to public well
- (iii) 3 feet separation between seasonal high groundwater table and the bottom of stone under cesspool
- (iv) 200 feet to surface drinking water supply or tributary stream or drain thereto
- (v) 150 feet to critical resource area as defined in these regulations
- (vi) Fecal coliform measured in groundwater within 50 feet of cesspool does not exceed an MPN of 10 per 100 ml
- (vii) No history of sewage overflow or other septic system failure

V. EXCEPTIONS TO REQUIREMENT FOR APPLICATION FOR SYSTEM SUITABILITY DETERMINATION:

No Application for System Suitability Determination shall be required where a valid permit for New System or Alteration exists at the time of the issuance of the building permit and the ISDS design approved by said permit accounts for the proposed improvements to be performed.

(b) Issuance of Building Permits for Activities Requiring Approval Under These Regulations - A municipality shall not issue a building permit pursuant to R.I. General Laws, Chapter 23-27.3, as amended, unless all written approvals by the Director required by these Regulations have been presented to the municipality and said approvals are valid at the time of the issuance of the building permit.

SD 2.01 - Applications for the Installation of New Systems or for the Alteration or Repair of Existing Individual Sewage Disposal Systems

(a) No person shall install, construct, alter or repair or cause to be installed, constructed, altered or repaired any individual sewage disposal system without first obtaining the Director's written approval of the plans and specifications for such work. Certifications of Site Suitability approved in accordance with SD 18.00 et seq. shall not be construed to operate as an approval for the construction of any ISDS.

(b) Applications for the installation of new individual sewage disposal systems and for the alteration and/or repair of existing individual sewage disposal systems shall include the following applications:

1. Application for New System: All Applications for New Systems shall be made in conformance with all requirements under these regulations. Applications not in

conformance with these regulations may be approved only through the variance procedures set forth in SD 20.00 through SD 20.03. An Application for a New System shall be made whenever an applicant proposes to:

- (a) Construct a new structure from which sewage will have to be disposed of by means of an individual sewage system; or
- (b) Modify an existing structure, not previously permitted to dispose of sewage, so as to require the disposal of sewage to an individual sewage disposal system; or
- (c) Increase sewage flow to an existing system by an amount greater than twenty-five (25) percent of the original design flow; or
- (d) Improve an existing residence through the addition of more than one bedroom; or
- (e) Change the use of a structure in conformance with SD 2.00 (a)(2)(A) and, as a prerequisite thereto, has been required to install a New System as the result of a System Suitability Determination.

2. Application for Alteration: An Application for an Alteration of an existing individual sewage disposal system shall be made whenever an applicant proposes a change in the size of an ISDS, a modification of an ISDS, or a building renovation or change of use (as defined in SD 1.00) of a structure discharging sewage into the system.

(a) The phrase "change in size", as used herein, shall mean any physical alteration to a system which will allow the system to accommodate:

- (i) In the case of a residence, the additional sewage flow resulting from the addition of not more than one bedroom; or
- (ii) In all other cases, an increased flow of sewage in an amount less than or equal to twenty-five (25) percent of the design flow.

(b) Changes in size which will accommodate increased sewage flows resulting from more than one bedroom or in an amount greater than twenty-five (25) percent of the design flow must obtain a permit for a New System in conformance with SD 2.01 (b) (1), above. All sewage flows will be determined in conformance with SD 3.00.

(c) The phrase "modification of an ISDS", as used herein, shall mean a change in the type of system or a modernization of an existing system.

(d)An Application for Alteration shall be made when required by the Individual Sewage Disposal System Program in response to an Application for System Suitability Determination, as described in SD 2.00 (a)(2).

(e)If necessary, certain requirements under these regulations may be relaxed in accordance with the variance procedures set forth in SD 20.00 through 20.03, provided that such modification is consistent with public health protection and protection of the environment. In reviewing any request for variance from these regulations, the protection of the public health and the environment shall be given priority over all other considerations.

3. Application for Repair: An Application for Repair of any individual sewage disposal system, or any component thereof, shall be made when an existing system or component has failed, as defined by SD 1.00.

(a)An Application for Repair shall not propose any construction, building renovation or change of use of a structure pursuant to SD 2.00.

(b)An Application for Repair shall not propose any increase in the original design flow of the system. Sewage flows shall be determined in conformance with SD 3.00.

(c)The approval of an Application for Repair shall not authorize any building renovation of any structure.

(d)Applicants shall meet the requirements of these regulations to the greatest extent possible. If necessary, certain requirements under these regulations may be relaxed at the discretion of the Director, provided that such modification is consistent with the protection of the public health and the environment. In reviewing any request for relaxation of these regulations, the protection of the public health and the environment shall be given priority over all other considerations.

§ 210-4. Applicability.

This ordinance shall be applicable to every owner of premises that has an individual sewage disposal system or is proposing to install an ISDS. In no way do the provisions of this ordinance abrogate the powers and duties of the Coastal Resources Management Council or the Department of Environmental Management to their responsibilities for the management of wastewater systems.

§ 210-5. Boundaries.

The Wastewater Management District will regulate the operating and maintenance of all ISDS within the Town of Charlestown.

§ 210-6. ISDS operation and maintenance.

A. Pumping of individual sewage disposal systems. [Amended 3-9-1998 by Ord. No. 209]

(1) The contents and equipment of an ISDS located within the WWMD shall be inspected and pumped out if such inspection deems that pumping is necessary. Pumping schedules shall be set by the WWMD Wastewater Management Commission. Inspections shall occur at a minimum frequency of once every three (3) years.

(2) Based on the following criteria, pumping schedules for ISDS may be set as determined by the WWMD Wastewater Management Commission. At no time, however, may an ISDS pumping schedule be less than once every six (6) years. Those ISDS owners are subject to ISDS inspection and reporting requirements.

(3) Threshold criteria for review of ISDS pumping schedule and ISDS maintenance.

(a) ISDS operating within its designed capacity and use. Using data from any ISDS inspection, together with site data such as soils and water table and household information obtained from an owner/occupant and any inspection records and reports (see § 210-7, ISDS inspections), the ISDS is:

[1] Properly functioning, the ISDS owner may petition the WWMD Wastewater Management Commission to revise his/her pumping to a less frequent level.

[2] Not properly functioning, the WWMD Wastewater Management Commission may require that the ISDS be pumped out at a more frequent level and that measures be taken to mitigate this finding. The WWMD Wastewater Management Commission will notify the ISDS owner of any deliberations it is considering which apply to this provision and work with the owner to meet the intended requirements. Such requirements include recommended corrective actions. If no negotiations can be made, the WWMD Wastewater Management Commission will notice the owner and require that an application be submitted to the RI DEM for the necessary permit to repair/alter the system, if necessary. Such application must be made within sixty (60) days of the Commission's notice.

(b) Cesspools. When the initial inspection record and report find that a cesspool exists and that such cesspool is not adequately treating septage in accordance with this ordinance, the cesspool will be considered a failed system and the RI DEM will be notified of such. The WWMD Wastewater Management Commission will notify the owner and require that an application be submitted to the RI DEM for the necessary permit to repair the system. Such application must be made within sixty (60) days of the Commission's notice. If a cesspool is found by the WWMD Wastewater Management Commission to be adequately treating

septage, the Commission shall not notify RI DEM as a matter of policy but shall keep such information on record for use in determining priority areas for upgrading ISDS and/or future sewers.

(c)Privies. Construction of new privies is prohibited.

B.Septage disposal. Septage or contents pumped from an ISDS shall be discharged at a wastewater treatment facility approved by the Department of Environmental Management for this purpose. All pumpers licensed by the town must show evidence of having the ability to discharge at such a facility.

C.Improper discharges to ISDS. The discharge of rain spouts, basement sumps or any other drains to an ISDS is prohibited.

D.Acid and organic chemical septic tank additives. The use or disposal of acids or any organic chemical solvents in an ISDS is prohibited by RI DEM.

E.Impervious surfaces. The location of swimming pools, patios, driveways or other impervious surfaces over leaching areas is prohibited without the approval of the Department of Environmental Management.

F.Garbage disposals. Garbage disposal discharges to an ISDS shall be discouraged, since such discharges add unnecessary solids to an ISDS.

G.Trees and shrubs. The owner shall keep trees and shrubs at a minimum of ten (10) feet from the leaching area to minimize the likelihood that roots will clog or disrupt the ISDS.

H.Accessibility. The owner shall maintain his/her ISDS so that it is accessible for inspection and maintenance.

§ 210-7. ISDS inspections.

This ordinance authorizes the passage of authorized representatives of the town, the WWMD Wastewater Management Commission or their designees and septage haulers licensed by the Wastewater Management Commission onto private property when necessary for the periodic inspection, pumping, maintenance and repair of ISDS.

A.Inspection frequency.

(1)All ISDS shall be subject to an on-site inspection by the WWMD or its designee at a minimum of once every three (3) years or more frequently as determined by the WWMD Wastewater Management Commission. All new ISDS may be subject to inspection by the WWMD to ensure proper site maintenance

during construction. Frequency of inspection would be determined as set forth in Section 6.1A(1).

(2) Inspections will also occur at the regularly scheduled pumping for each ISDS as set by the WWMD Wastewater Management Commission, but may also occur at other times set by the WWMD. At no time, however, will ISDS inspections occur at a frequency of less than once every three (3) years. Inspection other than those which occur at the regularly scheduled pumping may result from a complaint, the need to spot check the ISDS, or the need to follow up on previous pump-out(s) and/or inspection reports that suggest that an ISDS needs additional inspections. Criteria for additional inspections are as set forth in Section 6.1A(1).

(3) All ISDS owners shall be sent a written notice of regularly scheduled inspections. This notice may also require that ISDS owners provide basic ISDS and site information to the WWMD Wastewater Management Commission as stipulated in Subsection B.

B. Inspection records.

(1) ISDS inspection notices (Subsection A) shall contain the following informational requirements, developed by the WWMD Wastewater Management Commission and provided by the homeowner. The information will include, but not be limited to, occupancy of household (number of persons and/or seasonal use; rental property and schedule of rental occupancy; and condition of ISDS: R1 DEM-approved system or cesspool) and will also include that information found below at Subsection B(2), Inspection records. The homeowner will provide as much information as possible. The remaining criteria will be completed by the WWMD Wastewater Management Commission, its inspector and/or agent. The purpose of this information is to obtain basic ISDS and site data that will be used in conjunction with the actual ISDS pumping to assist the WWMD Wastewater Management Commission in its determinations as to whether or not an ISDS pumping schedule warrants change.

(2) The WWMD shall maintain a record of each ISDS inspected, including:

(a) Owner's name.

(b) Street address or utility pole number.

(c) Telephone number.

(d) ISDS location (rough sketch, yet accurate representation of location of system, including swing ties from the foundation to the septic tank cover and other critical components of the system).

(e) Date(s) of previous maintenance.

(f)Notes on ISDS condition, to include:

[1]Site conditions such as new construction, new living units, in-law apartment and encroachments onto disposal area.

[2]Type of septic system.

(g)Approximate size of tank.

(h)Physical condition of inlet and outlet baffles.

(i)Evidence of leakage into or out of tank.

(j)Evidence of backup of effluent.

(k)Distance between bottom of grease/scum layer and the bottom of the outlet baffle.

(l)Condition of surface vegetation.

(m)Presence of garbage disposal device.

C.Inspection reports.

(1)A written report detailing the results of the inspection shall be kept on file with the WWMD and sent to the homeowner. The report is sent to the homeowner for his/her review and to allow for data collected during inspection to be updated/revised, based on submittal of convincing evidence. If the inspection reveals a malfunctioning ISDS, the owner shall be given a written notice of the WWMD Wastewater Management Commission' findings. A copy of said report shall also be sent to the DEM, Division of Groundwater and ISDS. The owner shall be given sixty (60) days to contact the DEM and apply for a permit to repair or replace the system, if necessary. A time limit to complete any needed repairs or alterations shall be established on a case-by-case basis.

(2)If a system has not failed but requires pumping, the owner shall be required to show proof that the ISDS has been pumped within thirty (30) days of inspection. A receipt from the pumper shall constitute adequate proof. In cases of failure, the aforementioned notification process to the WWMD Wastewater Management Commission neither replaces nor precludes the obligation of the owner to notify the Rhode Island Department of Environmental Management, the Rhode Island Department of Health or the Coastal Resources Management Council.

§ 210-8. Administration.

A.Appointment of Wastewater Management Commission.

(1)Upon enactment of this ordinance, the Town Council of the Town of Charlestown shall appoint a five-member Wastewater Management Commission whose duty it shall be to oversee the administration of the Wastewater Management District.

(2)Initially, one (1) Commissioner shall be appointed to serve for one (1) year; one (1) Commissioner shall be appointed to serve for two (2) years; one (1) Commissioner shall be appointed to serve for three (3) years; one (1) Commissioner shall be appointed to serve for four (4) years; and one (1) Commissioner shall be appointed to serve for five (5) years. Thereafter, each Commissioner's term shall be for five (5) years.

(3)Annually, the Wastewater Management Commission shall elect a Chairman and Vice Chairman from among its members.

(4)No person who is not a resident of the Wastewater Management District shall be eligible to serve as a Commissioner.

(5)Commissioners shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of their duties.

B.Powers and duties of Wastewater Management Commission.

(1)Meetings of the Wastewater Management Commission shall be held at the call of the Chairman or Vice Chairman or by the vote of three (3) members. The Chairman or, in the absence of the Chairman, the Acting Chairman shall be empowered to administer oaths and compel the attendance of witnesses.

(2)It shall be the duty of the Wastewater Management Commission, without limitation, to:

(a)Supervise the administration of a program of surface water and groundwater protection through maintenance and inspection of individual sewage disposal systems as authorized by this ordinance and Title 45, Chapter 24.5, of the Rhode Island General Laws.

(b)Develop rules and regulations for the implementation of the ordinance.

(c)Recommend to the Director of Public Works and Town Administrator the appointment of such staff as may be necessary to implement and effectuate the efficient operation of the Wastewater Management District. Said staff will be subordinate to the Director of Public Works and form a component of the Department of Public Works.

(d)Render declaratory rulings regarding the rights and obligations of any person or owner of property that is subject to the requirements of this ordinance.

(e)Hear and decide appeals from any violation notice issued pursuant to this ordinance.

(f)Levy fines for violations pursuant to this ordinance.

§ 210-9. Education.

It shall be the responsibility of the WWMD to establish a public education program to make ISDS owners aware of the proper operation and maintenance of these systems.

§ 210-10. Financing.

A.Fee structure. The Wastewater Management Commission shall, through the town's budget process, recommend funding for the administration, operation, contractual obligations and services of the WWMD. An inspection service fee, as established from time to time by a Town Council resolution, may be assessed to each owner of an ISDS based on the number of these systems owned in the WWMD.

B.Grant or loan program. The Wastewater Management Commission shall make recommendations to the Town Council regarding the issuance of bonds or notes of the Town of Charlestown and the application for grants for the purpose of establishing a revolving fund to make low-interest loans or grants available to qualified property owners for the improvement, correction or replacement of failed ISDS. The WWMD shall establish specific criteria that shall be subject to comments from a public hearing prior to implementing a loan or grant program.

C.Finances. The Wastewater Management Commission shall prepare and submit to the Town Council and Budget Commission a detailed fiscal year budget requesting funds to operate the WWMD and administer the ordinance.

§ 210-11. Enforcement; penalties for offenses.

A.Enforcement responsibility. The manager of the WWMD shall be responsible for the enforcement of the provisions of this ordinance. The manager's duties shall include, without limitation, the following:

(1)Supervision of inspections of individual sewage disposal systems as required by this ordinance.

(2)Maintenance of inspections of individual sewage disposal systems as required by this ordinance.

(3) Issuance of violation notices.

(4) Notification of other appropriate municipal departments or state agencies as to the management of the WWMD.

B. Violation notices. Any owner of an ISDS determined to be in violation of this ordinance shall be issued a written notice stating the nature of the violation, the action required to correct the violation, the date by which the violation must be corrected and the penalty for noncompliance.

C. Penalties. Any person or owner who intentionally fails to comply with a violation notice shall be fined not more than five hundred dollars (\$500.) per violation. Each day of a continuing violation shall constitute a separate violation. All fees/fines shall be payable to the Town of Charlestown for the administration and implementation of the WWMD.

D. Hearings.

(1) Any owner of an ISDS who is cited for a violation of this ordinance shall have the right to a hearing before a quorum of the Wastewater Management Commission. A request for such a hearing must be made within thirty (30) days of receipt of the violation notice. Filing of a timely appeal shall stay the action required by the violation notice until a decision is rendered by the Wastewater Management Commission.

(2) The Wastewater Management Commission shall schedule a hearing on such an appeal within forty-five (45) days. Notice of the hearing shall be sent to the appellant by certified mail at least ten (10) days before the date set.

(3) A quorum of the Wastewater Management Commission is necessary to hear and decide any such appeal. A quorum is hereby defined as three (3) Commissioners.

(4) At the hearing, the appellant and any other interested party shall be permitted to present evidence and argument on all issues involved.

(5) The Wastewater Management Commission shall cause minutes to be kept of each hearing. Hearings may be stenographically recorded at the request of any party, provided that said party pays for the stenographer and the transcript.

(6) The decision of the Wastewater Management Commission shall be stated on the record at the conclusion of the hearing or shall be in writing and shall be rendered no more than forty-five (45) days after the hearing is closed. Said decision shall contain findings of fact and conclusions of law.

(7)An appeal of a violation notice may be disposed of by stipulation, agreed settlement, consent order or default.

§ 210-12. Judicial review; appellate procedures.

A.Any person or owner aggrieved by a decision of the Wastewater Management Commission may seek judicial review of the decision.

B.Proceedings for review are instituted by the filing of a complaint in the Fourth Division of the District Court within thirty (30) days of the date the decision was issued (Municipal Court may be optional).

C.The filing of a complaint shall not stay the decision of the Wastewater Management Commission. The Wastewater Management Commission may grant, or the District Court may order, a stay upon appropriate terms.

D.Within thirty (30) days after service of the complaint, or within further time allowed by the Court, the Wastewater Management Commission shall transmit to the Clerk of the Fourth District Court the entire record of the proceedings under review.

E.If, before the date set for hearing, application is made to the Court for leave to present additional evidence and it is shown to the satisfaction of the Court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the Wastewater Management Commission, the Court may order that the additional evidence be taken before the Wastewater Management Commission upon conditions determined by the Court. The Wastewater Management Commission may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the District Court.

F.The review shall be conducted by the Court without a trial and shall be confined to the records. In cases of alleged irregularities in the procedure before the Wastewater Management Commission not shown on the record, proof thereof may be taken by the Court. The Court, upon request, shall hear oral argument and receive written briefs.

G.The Court shall not substitute its judgment for that of the Wastewater Management Commission as to the weight of the evidence on questions of fact. The Court may affirm the decision of the Wastewater Management Commission or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(1)In violation of constitutional or statutory provisions;

(2) In excess of statutory authority of the Wastewater Management Commission;

(3) Made upon unlawful procedure;

(4) Affected by other error of law;

(5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.